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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,742	01/23/2001	John Posey	BD46-17	2270

7590 11/19/2003
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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/767,742

Applicant(s)

POSEY, JOHN

Examiner

Carmen D. White

Art Unit

3714

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 27 June 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☒ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

see attached office action for the reasons for this notification of non-compliance.

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Detailed Action**Defective Appeal Brief- Reasons for Noncompliance*****Status of Amendments***

Appellant's appeal brief includes a "Status of Amendment" statement, which is improper (i.e. defective) because a "Status of Amendment" statement is needed in cases where an amendment is filed **subsequent to** final rejection. However, no amendments were filed after the final rejection in the instant application.

Summary of the Invention

The brief does not contain a concise ***Summary of the Invention*** defined in the claims involved in the appeal, **which refers to the specification by page and line number**, and to the drawing, if any, by reference characters as required by 37 CFR 1.192(c)(5).

Issue

The brief does not contain a concise statement of the issues presented for review as required by 37 CFR 1.192(c)(6). In the ***Issue*** section of the Brief, Appellant has stated that the issue is *whether the rejections of claims 1-5 under 35 U.S.C. 103(a) is proper*. This is defective because each stated issue should correspond to a separate ground of rejection, which Appellant wishes the Board of Patent Appeals and Interferences to review. The issue should be whether the claims (1-5) are unpatentable under 35 U.S.C. 103 over the prior art (Karmel and Lobb et al).

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Appellant has also included **arguments**, regarding a reference that has not been made of record (Barnard- 6,456,938) in the **Issue** section of the Brief, which is improper.

Argument

The Argument section of the brief is not in compliance with 37 CFR

1.192(c)(8)(iv) which states the following:

For each rejection under 35 U.S.C. 103, the **argument shall specify the errors in the rejection** and, if appropriate, the specific limitations in the rejected claims which are not described in the prior art relied on in the rejection, and shall explain how such limitations render the claimed subject matter unobvious over the prior art. If the rejection is based upon a combination of references, the argument shall explain why the references, taken as a whole, do not suggest the claimed subject matter, and shall include, as may be appropriate, an explanation of why features disclosed in one reference may not properly be combined with features disclosed in another reference. A general argument that all the limitations are not described in a single reference does not satisfy the requirements of this paragraph.

USPTO Contact Information

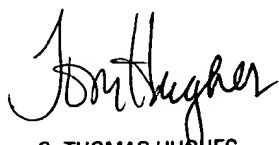
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.


cdw


S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
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